

HUMAN SERVICES DEPARTMENT[441]

Adopted and Filed

Pursuant to the authority of Iowa Code section 249A.4, the Department of Human Services amends Chapter 77, “Conditions of Participation for Providers of Medical and Remedial Care,” Iowa Administrative Code.

These amendments update provider qualifications for the Medicaid home- and community-based services programs to remove obsolete language and strengthen requirements. These amendments:

- Change the name of the home- and community-based services mental retardation (MR) waiver to the intellectual disability waiver (Items 1, 4, 7, and 18).
- Eliminate references to home care standards of the Department of Public Health in the qualifications for providers of homemaker services and home care services and require instead a contract with the Department of Public Health (Items 2, 5, 16, 22, 24, 27, 30, 32, 39, 41, and 42).
- Eliminate references to rules of the Department of Elder Affairs (now Department on Aging) in standards for providers of adult day care and reference instead Department of Inspections and Appeals rules at 481—Chapter 70 (Items 3, 5, 15, 22, 26, 27, 32, 34, 38, 39, 41, and 42).
- Eliminate references to rules of the Department of Elder Affairs in standards for providers of assisted living and reference instead Department of Inspections and Appeals rules at 481—Chapter 69 (Items 5, 22, 27, 32, 39, and 41).
- Clarify the qualifications for providers of interim medical monitoring and treatment in relation to training and experience necessary to provide medical intervention in a medical emergency (Items 6, 33, and 40).
- Change the word “consumer” to “member” where applicable in the rules amended (Items 5, 6, 10 to 14, 22, 27, 31 to 33, and 39 to 41).
- Eliminate the requirement that licensed dietitians must be approved by an area agency on aging (Items 9 and 20).
- Clarify that an independent support broker must have completed training approved by the Department, rather than certification (Item 11).
- Clarify who may provide self-directed personal care, individual-directed goods and services, and self-directed community supports and employment under the consumer choices option (Items 12, 13, and 14). A person who is the recipient of respite services paid on behalf of a member through a waiver (including through the consumer choices option) may not serve as the provider of one of these services for that member or any other member. Nor may the parent or stepparent of a minor member or the spouse of a member be paid to provide self-directed personal care, individual-directed goods and services, or self-directed community supports and employment services to that member.
- Clarify the time lines for submitting invoices and timesheets for reimbursement through the consumer choices option (Items 12, 13, and 14). The financial management service must receive invoices and timesheets within 30 calendar days of the date of service.
- Change qualifications for providers of chore service under the elderly waiver to eliminate area agencies on aging and to add home health agencies certified under Medicare, agencies that provide a similar service through a contract with the Department of Public Health, chore providers that were enrolled on June 30, 2010, and community businesses engaged in the provision of chore services that have the necessary licenses and insurance (Item 18).
- Change qualifications for providers of assistive devices under the elderly waiver to reference current Department on Aging rules and to add providers that were enrolled on June 30, 2010, and community businesses engaged in the provision of assistive devices that have the necessary licenses and insurance (Item 21).
- Update qualifications for case managers to reference current Department on Aging rules and to replace a reference to approval under Department of Public Health standards with a reference to possession of a contract with the Department of Public Health (Item 23).

- Under the intellectual disability and brain injury waivers, remove supported community living restrictions on living with other waiver members and remove obsolete provisions for conversion of existing facilities (Items 28, 29, 35, and 36).

- Add requirements for accreditation of providers of supported employment under the intellectual disability and brain injury waivers (Items 31 and 37).

Notice of Intended Action on these amendments was published in the Iowa Administrative Bulletin on October 6, 2010, as **ARC 9112B**. Three people submitted comments on the Notice of Intended Action. One noted that changes to allow people on various waivers to live together also required changes to 441—Chapter 78. Those changes were included in a Notice of Intended Action published in the Iowa Administrative Bulletin on October 20, 2010, as **ARC 9170B**.

Another commenter requested additional criteria for approval of five-bed living units and for qualifying for provision of supported employment services without having national accreditation. The Department would consider such changes, but additional time is needed for their development.

Another commenter expressed concern that transportation providers under the intellectual disability and brain injury waivers were required to get a letter of approval from an area agency on aging. The intent of the rules is to recognize a letter of approval from an area agency on aging as a sufficient qualification to provide transportation under those waivers, not to require agencies to go to the area agency for approval. Both waivers offer several alternative qualifications.

One commenter pointed out that the statute for restaurant licensing and inspection cited in the qualifications for providers of home-delivered meals has been renumbered from Iowa Code chapter 137B to chapter 137F. The Department has added new Items 8, 19, and 25 to the amendments as published under Notice of Intended Action to make this technical change and has renumbered the other items accordingly.

The following items apply to individual home- and community-based waivers:

- AIDS/HIV waiver: Items 4, 11 to 14, and 24 to 27.
- Brain injury waiver: Items 1, 11 to 14, and 35 to 40.
- Children’s mental health waiver: Items 7 and 42.
- Elderly waiver: Items 11 to 23.
- Ill and handicapped waiver: Items 2 to 14.
- Intellectual disability waiver (formerly called the mental retardation or MR waiver): Items 1, 7, 11 to 14, and 28 to 34.
- Physical disability waiver: Items 7 and 41.

These amendments do not provide for waivers in specified situations. Requests for the waiver of any rule may be submitted under the Department’s general rule on exceptions at 441—1.8(17A,217).

The Council on Human Services adopted these amendments on December 8, 2010.

These amendments are intended to implement Iowa Code section 249A.4.

These amendments shall become effective on March 1, 2011.

The following amendments are adopted.

ITEM 1. Strike “mental retardation waiver” wherever it appears in paragraph **77.25(6)“g”**; subparagraphs **77.25(7)“a”(1)**, **77.25(8)“d”(1)** and **77.25(9)“a”(1)**; rule **441—77.37(249A)**; and subparagraph **77.39(14)“a”(1)** and insert “intellectual disability waiver” in lieu thereof.

ITEM 2. Amend subrule 77.30(1) as follows:

77.30(1) Homemaker providers. Homemaker providers shall be agencies ~~which meet the home care standards and requirements set forth in department of public health rules, 641—80.5(135), 641—80.6(135), and 641—80.7(135) or which are certified as a home health agency under Medicare that are:~~

- a. Certified as a home health agency under Medicare, or
- b. Authorized to provide similar services through a contract with the department of public health (IDPH) for local public health services. The agency must provide a current IDPH local public health services contract number.

ITEM 3. Amend subrule 77.30(3) as follows:

77.30(3) Adult day care providers. Adult day care providers shall be agencies that are certified by the department of inspections and appeals as being in compliance with the standards for adult day services programs adopted by the department of elder affairs at 321—Chapter 24 at 481—Chapter 70.

ITEM 4. Strike “HCBS MR or BI waiver” wherever it appears in subparagraphs **77.30(5)“a”(2)** and **77.34(5)“a”(3)** and insert “home- and community-based services intellectual disability or brain injury waiver” in lieu thereof.

ITEM 5. Amend subrule 77.30(7) as follows:

77.30(7) Consumer-directed attendant care service providers. The following providers may provide consumer-directed attendant care service:

a. An individual who contracts with the ~~consumer~~ member to provide attendant care service and who is:

- (1) At least 18 years of age.
- (2) Qualified by training or experience to carry out the ~~consumer’s~~ member’s plan of care pursuant to the department-approved case plan or individual comprehensive plan.
- (3) Not the spouse of the ~~consumer~~ member or a parent or stepparent of a ~~consumer~~ member aged 17 or under.

(4) Not the recipient of respite services paid through home- and community-based services on the behalf of a ~~consumer~~ member who receives home- and community-based services.

b. ~~Home care providers that have a contract with the department of public health or have written certification from the department of public health stating they meet the home care standards and requirements set forth in department of public health rules 641—80.5(135), 641—80.6(135), and 641—80.7(135). Agencies authorized to provide similar services through a contract with the department of public health (IDPH) for local public health services. The agency must provide a current IDPH local public health services contract number.~~

c. to f. No change.

g. Assisted living programs that are ~~voluntarily accredited or~~ certified by the department of elder affairs inspections and appeals under 481—Chapter 69.

h. Adult day service providers ~~which meet the conditions of participation for adult day care providers as specified at 441—subrule 77.30(3), 77.33(1), 77.34(7), or 77.39(20) and which have provided a point-in-time letter of notification from the department of elder affairs or an area agency on aging stating the adult day service provider also meets the requirements of department of elder affairs rules in 321—Chapter 25 that are certified by the department of inspections and appeals under 481—Chapter 70.~~

ITEM 6. Amend subrule 77.30(8) as follows:

77.30(8) Interim medical monitoring and treatment providers.

a. The following providers may provide interim medical monitoring and treatment services:

- (1) Child care facilities, which are defined as child care centers licensed pursuant to 441—Chapter 109, preschools, or child development homes registered pursuant to 441—Chapter 110.
- (2) to (5) No change.

b. Staff requirements. Staff members providing interim medical monitoring and treatment services to ~~consumers~~ members shall meet all of the following requirements:

- (1) Be at least 18 years of age.
- (2) Not be the spouse of the ~~consumer~~ member or a parent or stepparent of the ~~consumer~~ member if the ~~consumer~~ member is aged 17 or under.
- (3) Not be a usual caregiver of the ~~consumer~~ member.
- (4) Be qualified by training or experience, ~~as determined by the usual caregivers and a licensed medical professional on the consumer’s interdisciplinary team and documented in the service plan, to provide medical intervention or intervention in a medical emergency necessary to carry out the consumer’s member’s plan of care. The training or experience required must be determined by the~~

member's usual caregivers and a licensed medical professional on the member's interdisciplinary team and must be documented in the member's service plan.

c. Service documentation. Providers shall maintain clinical and fiscal records necessary to fully disclose the extent of services furnished to ~~consumers~~ members. Records shall specify by service date the procedures performed, together with information concerning progress of treatment.

ITEM 7. Strike "mental retardation or brain injury waiver" wherever it appears in paragraphs **77.30(9)"c," 77.33(9)"c," 77.37(17)"a," 77.41(3)"a" and 77.46(2)"d"** and insert "home- and community-based services intellectual disability or brain injury waiver" in lieu thereof.

ITEM 8. Amend paragraph **77.30(11)"d"** as follows:

d. Restaurants licensed and inspected under Iowa Code chapter ~~137B~~ 137F.

ITEM 9. Amend subrule 77.30(12) as follows:

77.30(12) Nutritional counseling. The following providers may provide nutritional counseling by a ~~licensed dietitian licensed under 645—Chapter 81:~~

a. to d. No change.

e. ~~Licensed~~ Independent licensed dietitians approved by an area agency on aging.

ITEM 10. Amend subrule 77.30(13), introductory paragraph, as follows:

77.30(13) Financial management service. ~~Consumers~~ Members who elect the consumer choices option shall work with a financial institution that meets the following qualifications.

ITEM 11. Amend subrule 77.30(14) as follows:

77.30(14) Independent support brokerage. ~~Consumers~~ Members who elect the consumer choices option shall work with an independent support broker who meets the following qualifications.

a. No change.

b. The broker shall not be the ~~consumer's~~ member's guardian, conservator, attorney in fact under a durable power of attorney for health care, power of attorney for financial matters, trustee, or representative payee.

c. The broker shall not provide any other paid service to the ~~consumer~~ member.

d. The broker shall not work for an individual or entity that is providing services to the ~~consumer~~ member.

e. The broker must consent to a criminal background check and child and dependent adult abuse checks. The results shall be provided to the ~~consumer~~ member.

f. The broker must complete an independent support brokerage ~~certification~~ training approved by the department.

ITEM 12. Amend subrule 77.30(15) as follows:

77.30(15) Self-directed personal care. ~~Consumers~~ Members who elect the consumer choices option may choose to purchase self-directed personal care services from an individual or business that meets the following requirements.

a. and b. No change.

c. All personnel providing self-directed personal care services shall:

(1) Be at least 16 years of age; ~~and~~

(2) Be able to communicate successfully with the ~~consumer~~ member.

(3) Not be the recipient of respite services paid through home- and community-based services on behalf of a member who receives home- and community-based services.

(4) Not be the recipient of respite services paid through the consumer choices option on behalf of a member who receives the consumer choices option.

(5) Not be the parent or stepparent of a minor child member or the spouse of a member.

d. The provider of self-directed personal care services shall:

(1) No change.

(2) Submit invoices and ~~timecards~~ timesheets to the financial management service ~~within~~ no later than 30 calendar days from the date when the last service in the billing period was provided. Payment shall not be made if invoices and timesheets are received after this 30-day period.

ITEM 13. Amend subrule 77.30(16) as follows:

77.30(16) Individual-directed goods and services. ~~Consumers~~ Members who elect the consumer choices option may choose to purchase individual-directed goods and services from an individual or business that meets the following requirements.

a. and b. No change.

c. All personnel providing individual-directed goods and services shall:

(1) Be at least 18 years of age; ~~and~~.

(2) Be able to communicate successfully with the ~~consumer~~ member.

(3) Not be the recipient of respite services paid through home- and community-based services on behalf of a member who receives home- and community-based services.

(4) Not be the recipient of respite services paid through the consumer choices option on behalf of a member who receives the consumer choices option.

(5) Not be the parent or stepparent of a minor child member or the spouse of a member.

d. The provider of individual-directed goods and services shall:

(1) No change.

(2) Submit invoices and ~~timecards~~ timesheets to the financial management service within no later than 30 calendar days from the date when the last service in the billing period was provided. Payment shall not be made if invoices and timesheets are received after this 30-day period.

ITEM 14. Amend subrule 77.30(17) as follows:

77.30(17) Self-directed community supports and employment. ~~Consumers~~ Members who elect the consumer choices option may choose to purchase self-directed community supports and employment from an individual or business that meets the following requirements.

a. and b. No change.

c. All personnel providing self-directed community supports and employment shall:

(1) Be at least 18 years of age; ~~and~~.

(2) Be able to communicate successfully with the ~~consumer~~ member.

(3) Not be the recipient of respite services paid through home- and community-based services on behalf of a member who receives home- and community-based services.

(4) Not be the recipient of respite services paid through the consumer choices option on behalf of a member who receives the consumer choices option.

(5) Not be the parent or stepparent of a minor child member or the spouse of a member.

d. The provider of self-directed community supports and employment shall:

(1) No change.

(2) Submit invoices and ~~timecards~~ timesheets to the financial management service within no later than 30 calendar days from the date when the last service in the billing period was provided. Payment shall not be made if invoices and timesheets are received after this 30-day period.

ITEM 15. Amend subrule 77.33(1) as follows:

77.33(1) Adult day care providers. Adult day care providers shall be agencies that are certified by the department of inspections and appeals as being in compliance with the standards for adult day services programs ~~adopted by the department of elder affairs at 321—Chapter 24 at 481—Chapter 70.~~

ITEM 16. Amend subrule 77.33(4) as follows:

77.33(4) Homemaker providers. Homemaker providers shall be agencies ~~which meet the home care standards and requirements set forth in department of public health rules 641—80.5(135), 641—80.6(135), and 641—80.7(135) or which are certified as a home health agency under Medicare that are:~~

a. Certified as a home health agency under Medicare, or

b. Authorized to provide similar services through a contract with the department of public health (IDPH) for local public health services. The agency must provide a current IDPH local public health services contract number.

ITEM 17. Strike “HCBS MR” wherever it appears in subparagraph **77.33(6)“a”(4)** and rule **441—77.37(249A)** and insert “home- and community-based services intellectual disability” in lieu thereof.

ITEM 18. Amend subrule 77.33(7) as follows:

77.33(7) Chore providers. The following providers may provide chore services:

a. ~~Area agencies on aging as designated in 321—4.4(231). Chore providers subcontracting with area agencies on aging or with letters of approval from the area agencies on aging stating the organization is qualified to provide chore services may also provide chore services.~~ Home health agencies certified under Medicare.

b. Community action agencies as designated in Iowa Code section 216A.93.

c. ~~Home health aide providers meeting the standards set forth in subrule 77.33(3). Home health aide providers contracting~~ Agencies authorized to provide similar services through a contract with the department of public health shall be considered to have met these standards (IDPH) for local public health services. The agency must provide a current IDPH local public health services contract number.

d. Nursing facilities licensed pursuant to Iowa Code chapter 135C.

e. ~~Providers certified under the HCBS MR waiver that were enrolled as chore providers as of June 30, 2010, based on a subcontract with or letter of approval from an area agency on aging.~~

f. Community businesses that are engaged in the provision of chore services and that:

(1) Have all necessary licenses and permits to operate in conformity with federal, state, and local laws and regulations, and

(2) Submit verification of current liability and workers’ compensation coverage.

ITEM 19. Amend paragraph **77.33(8)“d”** as follows:

d. ~~Restaurants licensed and inspected under Iowa Code chapter 137B~~ 137F.

ITEM 20. Amend subrule 77.33(12) as follows:

77.33(12) Nutritional counseling. The following providers may provide nutritional counseling by a ~~licensed dietitian licensed under 645—Chapter 81:~~

a. to d. No change.

e. ~~Licensed Independent licensed dietitians approved by an area agency on aging.~~

ITEM 21. Amend subrule 77.33(13) as follows:

77.33(13) Assistive devices device providers. The following providers may provide assistive devices:

a. ~~Medicaid-eligible~~ enrolled medical equipment and supply dealers.

b. ~~Area agencies on aging as designated according to department of elder affairs on aging rules 321—4.3(249D) 17—4.4(231) and 321—4.4(249D) 17—4.9(231).~~

c. ~~Assistive devices providers with a contract with an area agency on aging or with a letter of approval from an area agency on aging stating the organization is qualified to provide assistive devices. Providers that were enrolled as assistive device providers as of June 30, 2010, based on a contract with or letter of approval from an area agency on aging.~~

d. Community businesses that are engaged in the provision of assistive devices and that:

(1) Have all necessary licenses and permits to operate in conformity with federal, state, and local laws and regulations, and

(2) Submit verification of current liability and workers’ compensation coverage.

ITEM 22. Amend subrule 77.33(15) as follows:

77.33(15) Consumer-directed attendant care service providers. The following providers may provide consumer-directed attendant care service:

a. ~~An individual who contracts with the consumer~~ member to provide attendant care service and who is:

(1) At least 18 years of age.

(2) Qualified by training or experience to carry out the consumer’s member’s plan of care pursuant to the department-approved case plan or individual comprehensive plan.

- (3) Not the spouse of the ~~consumer~~ member or parent or stepparent of a member aged 17 or under.
- (4) Not the recipient of respite services paid through home- and community-based services on the behalf of a ~~consumer~~ member who receives home- and community-based services.

b. ~~Home care providers that have a contract with the department of public health or have written certification from the department of public health stating they meet the home care standards and requirements set forth in department of public health rules 641—80.5(135), 641—80.6(135), and 641—80.7(135).~~ Agencies authorized to provide similar services through a contract with the department of public health (IDPH) for local public health services. The agency must provide a current IDPH local public health services contract number.

c. to f. No change.

g. Assisted living programs that are ~~voluntarily accredited or~~ certified by the department of elder affairs inspections and appeals under 481—Chapter 69.

h. ~~Adult day service providers which meet the conditions of participation for adult day care providers as specified at 441—subrule 77.30(3), 77.33(1), 77.34(7), or 77.39(20) and which have provided a point-in-time letter of notification from the department of elder affairs or an area agency on aging stating the adult day service provider also meets the requirements of department of elder affairs rules in 321—Chapter 25 that are certified by the department of inspections and appeals under 481—Chapter 70.~~

ITEM 23. Amend paragraph **77.33(21)“a”** as follows:

a. The case management provider ~~organization~~ shall be an agency or individual that:

(1) to (3) No change.

(4) Is accredited through the Council on Quality and Leadership in Supports for People with Disabilities (~~The Council~~ CQL) to provide case management; or

(5) Is approved by the department ~~of elder affairs on aging~~ as meeting the standards for case management services in ~~321—Chapter 21~~ 17—Chapter 21; or

(6) ~~Is approved by the department of public health as meeting the standards for case management services in 641—Chapter 80.~~ Is authorized to provide similar services through a contract with the department of public health (IDPH) for local public health services and that:

1. Meets the qualifications for case managers in 641—subrule 80.6(1); and

2. Provides a current IDPH local public health services contract number.

ITEM 24. Amend subrule 77.34(3) as follows:

77.34(3) Homemaker providers. ~~Homemaker providers shall be agencies which meet the home care standards and requirements set forth in department of public health rules 641—80.5(135), 641—80.6(135) and 641—80.7(135), or which are certified as a home health agency under Medicare that are:~~

a. Certified as a home health agency under Medicare, or

b. Authorized to provide similar services through a contract with the department of public health (IDPH) for local public health services. The agency must provide a current IDPH local public health services contract number.

ITEM 25. Amend paragraph **77.34(6)“e”** as follows:

e. ~~Restaurants licensed and inspected under Iowa Code chapter 137B~~ 137F.

ITEM 26. Amend subrule 77.34(7) as follows:

77.34(7) Adult day care providers. ~~Adult day care providers shall be agencies that are certified by the department of inspections and appeals as being in compliance with the standards for adult day services programs adopted by the department of elder affairs at 321—Chapter 24 at 481—Chapter 70.~~

ITEM 27. Amend subrule 77.34(8) as follows:

77.34(8) Consumer-directed attendant care service providers. The following providers may provide consumer-directed attendant care service:

a. An individual who contracts with the ~~consumer~~ member to provide attendant care service and who is:

- (1) At least 18 years of age.
 - (2) Qualified by training or experience to carry out the ~~consumer's~~ member's plan of care pursuant to the department-approved case plan or individual comprehensive plan.
 - (3) Not the spouse of the ~~consumer~~ member or a parent or stepparent of a ~~consumer~~ member aged 17 or under.
 - (4) Not the recipient of respite services paid through home- and community-based services on the behalf of a ~~consumer~~ member who receives home- and community-based services.
- ~~b. Home care providers that have a contract with the department of public health or have written certification from the department of public health stating they meet the home care standards and requirements set forth in department of public health rules 641—80.5(135), 641—80.6(135), and 641—80.7(135). Agencies authorized to provide similar services through a contract with the department of public health (IDPH) for local public health services. The agency must provide a current IDPH local public health services contract number.~~
- ~~c. to f. No change.~~
- ~~g. Assisted living programs that are voluntarily accredited or certified by the department of elder affairs inspections and appeals under 481—Chapter 69.~~
- ~~h. Adult day service providers which meet the conditions of participation for adult day care providers as specified at 441—subrule 77.30(3), 77.33(1), 77.34(7), or 77.39(20) and which have provided a point in time letter of notification from the department of elder affairs or an area agency on aging stating the adult day service provider also meets the requirements of department of elder affairs rules in 321—Chapter 25 that are certified by the department of inspections and appeals under 481—Chapter 70.~~

ITEM 28. Rescind paragraph **77.37(14)“e”** and adopt the following **new** paragraph in lieu thereof:

e. The department shall approve living units designed to serve up to four persons except as necessary to prevent an overconcentration of supported community living units in a geographic area.

ITEM 29. Adopt the following **new** paragraph **77.37(14)“f”**:

f. The department shall approve a living unit designed to serve five persons if both of the following conditions are met:

- (1) Approval will not result in an overconcentration of supported community living units in a geographic area.
- (2) The county in which the living unit is located provides to the bureau of long-term care verification in writing that the approval is needed to address one or more of the following issues:
 1. The quantity of services currently available in the county is insufficient to meet the need;
 2. The quantity of affordable rental housing in the county is insufficient to meet the need; or
 3. Approval will result in a reduction in the size or quantity of larger congregate settings.

ITEM 30. Amend subparagraph **77.37(15)“a”(7)** as follows:

~~(7) Home care agencies that meet the home care standards and requirements set forth in department of public health rules 641—80.5(135) through 641—80.7(135). Agencies authorized to provide similar services through a contract with the department of public health (IDPH) for local public health services. The agency must provide a current IDPH local public health services contract number.~~

ITEM 31. Amend subrule 77.37(16) as follows:

77.37(16) Supported employment providers.

a. The following agencies may provide supported employment services:

- (1) An agency that is accredited by the Commission on Accreditation of Rehabilitation Facilities as an organizational employment service provider, a community employment service provider, or a provider of a similar service.
- (2) An agency that is accredited by the Council on Accreditation of Services for Families and Children for similar services.
- (3) An agency that is accredited by the Joint Commission on Accreditation of Healthcare Organizations for similar services.

(4) An agency that is accredited by the Council on Quality and Leadership in Supports for People with Disabilities for similar services.

(5) An agency that is accredited by the International Center for Clubhouse Development.

~~a. b.~~ Providers responsible for the payroll of ~~consumers~~ members shall have policies that ensure compliance with state and federal labor laws and regulations, which include, but are not limited to:

- (1) ~~Consumer~~ Member vacation, sick leave and holiday compensation.
- (2) Procedures for payment schedules and pay scale.
- (3) Procedures for provision of workers' compensation insurance.
- (4) Procedures for the determination and review of commensurate wages.
- (5) ~~Department of labor requirements.~~

~~b. c.~~ The department will contract only with public or private agencies to provide supported employment services. The department does not recognize individuals as service providers under the supported employment program.

ITEM 32. Amend subrule 77.37(21) as follows:

77.37(21) *Consumer-directed attendant care ~~service~~ providers.* The following providers may provide consumer-directed attendant care service:

a. An individual who contracts with the ~~consumer~~ member to provide attendant care service and who is:

- (1) At least 18 years of age.
- (2) Qualified by training or experience to carry out the ~~consumer's~~ member's plan of care pursuant to the department-approved case plan or individual comprehensive plan.
- (3) Not the spouse of the ~~consumer~~ member or a parent or stepparent of a ~~consumer~~ member aged 17 or under.
- (4) Not the recipient of respite services paid through home- and community-based services on the behalf of a ~~consumer~~ member who receives home- and community-based services.

b. ~~Home care providers that have a contract with the department of public health or have written certification from the department of public health stating they meet the home care standards and requirements set forth in department of public health rules 641—80.5(135), 641—80.6(135), and 641—80.7(135). Agencies authorized to provide similar services through a contract with the department of public health (IDPH) for local public health services. The agency must provide a current IDPH local public health services contract number.~~

c. to f. No change.

g. Assisted living programs that are ~~voluntarily accredited or~~ certified by the department of elder affairs inspections and appeals under 481—Chapter 69.

h. Adult day service providers ~~which meet the conditions of participation for adult day care providers as specified at 441—subrule 77.30(3), 77.33(1), 77.34(7), or 77.39(20) and which have provided a point-in-time letter of notification from the department of elder affairs or an area agency on aging stating the adult day service provider also meets the requirements of department of elder affairs rules in 321—Chapter 25 that are certified by the department of inspections and appeals under 481—Chapter 70.~~

ITEM 33. Amend subrule 77.37(22) as follows:

77.37(22) *Interim medical monitoring and treatment providers.*

a. The following providers may provide interim medical monitoring and treatment services:

- (1) Child care facilities, which are defined as child care centers licensed pursuant to 441—Chapter 109, preschools, or child development homes registered pursuant to 441—Chapter 110.
- (2) to (5) No change.

b. Staff requirements. Staff members providing interim medical monitoring and treatment services to ~~consumers~~ members shall meet all of the following requirements:

- (1) Be at least 18 years of age.
- (2) Not be the spouse of the ~~consumer~~ member or a parent or stepparent of the ~~consumer~~ member if the ~~consumer~~ member is aged 17 or under.

(3) Not be a usual caregiver of the ~~consumer~~ member.

(4) Be qualified by training or experience, ~~as determined by the usual caregivers and a licensed medical professional on the consumer's interdisciplinary team and documented in the service plan,~~ to provide medical intervention or intervention in a medical emergency necessary to carry out the ~~consumer's~~ member's plan of care. The training or experience required must be determined by the member's usual caregivers and a licensed medical professional on the member's interdisciplinary team and must be documented in the member's service plan.

c. Service documentation. Providers shall maintain clinical and fiscal records necessary to fully disclose the extent of services furnished to ~~consumers~~ members. Records shall specify by service date the procedures performed, together with information concerning progress of treatment.

ITEM 34. Amend subrule 77.37(25) as follows:

77.37(25) Adult day care providers. Adult day care providers shall be agencies that are certified by the department of inspections and appeals as being in compliance with the standards for adult day services programs ~~adopted by the department of elder affairs at 321—Chapter 24 at 481—Chapter 70.~~

ITEM 35. Rescind paragraph **77.39(13)“e”** and adopt the following **new** paragraph in lieu thereof:

e. The department shall approve living units designed to serve up to four persons except as necessary to prevent an overconcentration of supported community living units in a geographic area.

ITEM 36. Adopt the following **new** paragraph **77.39(13)“f”**:

f. The department shall approve a living unit designed to serve five persons if both of the following conditions are met:

(1) Approval will not result in an overconcentration of supported community living units in a geographic area.

(2) The county in which the living unit is located provides to the bureau of long-term care verification in writing that the approval is needed to address one or more of the following issues:

1. The quantity of services currently available in the county is insufficient to meet the need;
2. The quantity of affordable rental housing in the county is insufficient to meet the need; or
3. Approval will result in a reduction in the size or quantity of larger congregate settings.

ITEM 37. Amend subrule 77.39(15) as follows:

77.39(15) Supported employment providers.

a. The following agencies may provide supported employment services:

(1) An agency that is accredited by the Commission on Accreditation of Rehabilitation Facilities as an organizational employment service provider, a community employment service provider or a provider of a similar service.

(2) An agency that is accredited by the Council on Accreditation of Services for Families and Children for similar services.

(3) An agency that is accredited by the Joint Commission on Accreditation of Healthcare Organizations for similar services.

(4) An agency that is accredited by the Council on Quality and Leadership in Supports for People with Disabilities for similar services.

(5) An agency that is accredited by the International Center for Clubhouse Development.

~~a. b.~~ Providers responsible for the payroll of ~~consumers~~ members shall have policies that ensure compliance with state and federal labor laws and regulations, which include, but are not limited to:

- (1) ~~Consumer~~ Member vacation, sick leave and holiday compensation.
- (2) Procedures for payment schedules and pay scale.
- (3) Procedures for provision of workers' compensation insurance.
- (4) Procedures for the determination and review of commensurate wages.
- (5) ~~Both state and federal department of labor requirements.~~

~~b. c.~~ The department ~~shall certify~~ will contract only with public or private agencies to provide supported employment services. The department does not recognize individuals as service providers under the supported employment program.

ITEM 38. Amend subrule 77.39(20) as follows:

77.39(20) *Adult day care providers.* Adult day care providers shall be agencies that are certified by the department of inspections and appeals as being in compliance with the standards for adult day services programs ~~adopted by the department of elder affairs at 321—Chapter 24 at 481—Chapter 70.~~

ITEM 39. Amend subrule 77.39(24) as follows:

77.39(24) *Consumer-directed attendant care service providers.* The following providers may provide consumer-directed attendant care service:

a. An individual who contracts with the ~~consumer~~ member to provide attendant care service and who is:

- (1) At least 18 years of age.
- (2) Qualified by training or experience to carry out the ~~consumer's~~ member's plan of care pursuant to the department-approved case plan or individual comprehensive plan.
- (3) Not the spouse of the ~~consumer~~ member or a parent or stepparent of a ~~consumer~~ member aged 17 or under.

(4) Not the recipient of respite services paid through home- and community-based services on the behalf of a ~~consumer~~ member who receives home- and community-based services.

b. ~~Home care providers that have a contract with the department of public health or have written certification from the department of public health stating they meet the home care standards and requirements set forth in department of public health rules 641—80.5(135), 641—80.6(135), and 641—80.7(135).~~ Agencies authorized to provide similar services through a contract with the department of public health (IDPH) for local public health services. The agency must provide a current IDPH local public health services contract number.

c. to f. No change.

g. Assisted living programs that are ~~voluntarily accredited or~~ certified by the department of elder affairs inspections and appeals under 481—Chapter 69.

h. ~~Adult day service providers that meet the conditions of participation for adult day care providers as specified at 441—subrule 77.30(3), 77.33(1), 77.34(7), or 77.39(20) and that have provided a point-in-time letter of notification from the department of elder affairs or an area agency on aging stating the adult day service provider also meets the requirements of department of elder affairs rules in 321—Chapter 25 that are certified by the department of inspections and appeals under 481—Chapter 70.~~

ITEM 40. Amend subrule 77.39(25) as follows:

77.39(25) *Interim medical monitoring and treatment providers.*

a. The following providers may provide interim medical monitoring and treatment services:

(1) Child care facilities, which are defined as child care centers licensed pursuant to 441—Chapter 109, preschools, or child development homes registered pursuant to 441—Chapter 110.

(2) to (5) No change.

b. Staff requirements. Staff members providing interim medical monitoring and treatment services to ~~consumers~~ members shall meet all of the following requirements:

(1) Be at least 18 years of age.

(2) Not be the spouse of the ~~consumer~~ member or a parent or stepparent of the ~~consumer~~ member if the ~~consumer~~ member is aged 17 or under.

(3) Not be a usual caregiver of the ~~consumer~~ member.

(4) Be qualified by training or experience, ~~as determined by the usual caregivers and a licensed medical professional on the consumer's interdisciplinary team and documented in the service plan,~~ to provide medical intervention or intervention in a medical emergency necessary to carry out the ~~consumer's~~ member's plan of care. The training or experience required must be determined by the member's usual caregivers and a licensed medical professional on the member's interdisciplinary team and must be documented in the member's service plan.

c. Service documentation. Providers shall maintain clinical and fiscal records necessary to fully disclose the extent of services furnished to ~~consumers~~ members. Records shall specify by service date the procedures performed, together with information concerning progress of treatment.

ITEM 41. Amend subrule 77.41(2) as follows:

77.41(2) Consumer-directed attendant care providers. The following providers may provide consumer-directed attendant care service:

a. An individual who contracts with the ~~consumer~~ member to provide consumer-directed attendant care and who is:

- (1) At least 18 years of age.
- (2) Qualified by training or experience to carry out the ~~consumer's~~ member's plan of care pursuant to the department-approved case plan or individual comprehensive plan.
- (3) Not the spouse or guardian of the ~~consumer~~ member or a parent or stepparent of a member aged 17 or under.
- (4) Not the recipient of respite services paid through home- and community-based services on behalf of a ~~consumer~~ member who receives home- and community-based services.

b. ~~Home care providers that have a contract with the department of public health or have written certification from the department of public health stating that they meet the home care standards and requirements set forth in department of public health rules 641—80.5(135), 641—80.6(135), and 641—80.7(135).~~ Agencies authorized to provide similar services through a contract with the department of public health (IDPH) for local public health services. The agency must provide a current IDPH local public health services contract number.

c. to f. No change.

g. Assisted living programs that are ~~voluntarily accredited or~~ certified by the department of elder affairs inspections and appeals under 481—Chapter 69.

h. Adult day service providers ~~which meet the conditions of participation for adult day care providers as specified at 441—subrule 77.30(3), 77.33(1), 77.34(7), or 77.39(20) and which have provided a point-in-time letter of notification from the department of elder affairs or an area agency on aging stating the adult day service provider also meets the requirements of department of elder affairs rules in 321—Chapter 25 that are certified by the department of inspections and appeals under 481—Chapter 70.~~

ITEM 42. Amend subparagraphs **77.46(5)“a”(6)** and **(7)** as follows:

(6) ~~Home care agencies that meet the requirements set forth in department of public health rule 641—80.7(135).~~ Agencies authorized to provide similar services through a contract with the department of public health (IDPH) for local public health services. The agency must provide a current IDPH local public health services contract number.

(7) Adult day care providers that are certified in good standing by the department of inspections and appeals as being in compliance with the standards for adult day services programs ~~adopted by the department of elder affairs at 321—Chapter 24~~ at 481—Chapter 70.

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